

**Introduced by Senator Brulte**

February 6, 2003

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An act to amend Section 1255.7 of the Health and Safety Code, and to amend Section 271.5 of the Penal Code, relating to abandoned newborns.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 139, as introduced, Brulte. Abandoned newborns: safe-surrender.

Existing law provides that a parent or other person having lawful custody of a minor child 72 hours old or younger who surrenders physical custody of the child to a designated employee on duty at a hospital emergency room or other location designated by a county board of supervisors by resolution may not be prosecuted for specified crimes related to child abandonment and neglect.

Existing law requires the person designated pursuant to these provisions to take physical custody of the child in accordance with certain requirements if the parent or other person having lawful custody of the child voluntarily surrenders physical custody to that person.

This bill would revise these provisions to eliminate the requirement that the child be surrendered to a designated employee on duty in the emergency room of a hospital or location designated by the board of supervisors. The bill would instead allow the surrender of the child to a safe-surrender site, as defined, at a hospital or location designated for this purpose by a county board of supervisors. The bill would also provide that certain information pertaining to the individual surrendering the child is confidential and would require safe-surrender sites to post signs, as prescribed by the State Department of Health Services.



Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1255.7 of the Health and Safety Code  
2     is amended to read:  
3     1255.7. (a) (1) *For purposes of this section, “safe-surrender*  
4     *site” means either of the following:*  
5     (A) *A location designated by the board of supervisors of a*  
6     *county to be responsible for accepting physical custody of a minor*  
7     *child who is 72 hours old or younger from a parent or individual*  
8     *who has lawful custody of the child and who surrenders the child*  
9     *pursuant to Section 271.5 of the Penal Code.*  
10    (B) *A location within a public or private hospital that is*  
11    *designated by that hospital to be responsible for accepting*  
12    *physical custody of a minor child who is 72 hours old or younger*  
13    *from a parent or individual who has lawful custody of the child and*  
14    *who surrenders the child pursuant to Section 271.5 of the Penal*  
15    *Code.*  
16    (2) *A hospital and any safe-surrender site designated by the*  
17    *county board of supervisors shall post a sign that meets*  
18    *requirements established by the State Department of Health*  
19    *Services that notifies the public of the location where a minor child*  
20    *72 hours old or younger may be safely surrendered pursuant to this*  
21    *section.*  
22    (b) ~~A person designated pursuant to Section 271.5 of the Penal~~  
23    ~~Code shall take~~ *safe-surrender site shall accept* physical custody  
24    of a minor child 72 hours old or younger pursuant to this section  
25    if ~~the~~ *a* parent or other ~~person~~ *individual* having lawful custody of  
26    the child voluntarily surrenders physical custody of the child to  
27    ~~that person~~ *the safe-surrender site. The person designated shall*  
28    ~~place~~ *Safe-surrender site personnel shall ensure that a qualified*  
29    *person does all of the following:*  
30    (1) *Places a coded, confidential ankle bracelet on the child and*  
31    ~~provide.~~  
32    (2) *Provides, or make makes a good faith effort to provide, to*  
33    the parent or other ~~person~~ *individual* surrendering the child a copy  
34    of a unique, coded, confidential ankle bracelet identification in

1 order to facilitate reclaiming the child pursuant to subdivision ~~(e)~~  
2 ~~(f)~~.

3 ~~(2) The person designated shall provide~~

4 (3) *Provides*, or ~~make~~ *makes* a good faith effort to provide, to  
5 the parent or other ~~person~~ *individual* surrendering the child a  
6 medical information questionnaire, which may be declined,  
7 voluntarily filled out and returned at the time the child is  
8 surrendered, or later filled out and mailed in the envelope provided  
9 for this purpose. This medical information questionnaire shall not  
10 require any identifying information about the child or the parent  
11 or ~~person~~ *individual* surrendering the child, other than the  
12 identification code provided in the ankle bracelet placed on the  
13 child. Every questionnaire provided pursuant to this section shall  
14 begin with the following notice in no less than 12-point type:

15 NOTICE: THE BABY YOU HAVE BROUGHT IN TODAY  
16 MAY HAVE SERIOUS MEDICAL NEEDS IN THE FUTURE  
17 THAT WE DON'T KNOW ABOUT TODAY. SOME  
18 ILLNESSES, INCLUDING CANCER, ARE BEST TREATED  
19 WHEN WE KNOW ABOUT FAMILY MEDICAL HISTORIES.  
20 IN ADDITION, SOMETIMES RELATIVES ARE NEEDED  
21 FOR LIFE-SAVING TREATMENTS. TO MAKE SURE THIS  
22 BABY WILL HAVE A HEALTHY FUTURE, YOUR  
23 ASSISTANCE IN COMPLETING THIS QUESTIONNAIRE  
24 FULLY IS ESSENTIAL. THANK YOU.

25 ~~(b) A person taking~~

26 (c) *Personnel of a safe-surrender site that has* physical custody  
27 of a minor child pursuant to this section shall ~~provide~~ *ensure that*  
28 a medical screening examination and any necessary medical care  
29 *is provided* to the minor child. Notwithstanding any other  
30 provision of law, the consent of the parent or other relative shall  
31 not be required to provide that care to the minor child.

32 ~~(e)–~~

33 (d) As soon as possible, but in no event later than 48 hours after  
34 ~~taking the physical custody of a child has been accepted pursuant~~  
35 ~~to this section, a person who takes~~ *personnel of the safe-surrender*  
36 *site that has physical custody of a the child under this section* shall  
37 notify child protective services or a county agency providing child  
38 welfare services pursuant to Section 16501 of the Welfare and  
39 Institutions Code, that the ~~person~~ *safe-surrender site* has physical  
40 custody of the child pursuant to this section.

1 ~~(d)~~—

2 (e) Child protective services or the county agency providing  
3 child welfare services pursuant to Section 16501 of the Welfare  
4 and Institutions Code shall assume temporary custody of the child  
5 pursuant to Section 300 of the Welfare and Institutions Code  
6 immediately on receipt of notice under subdivision ~~(e)~~ (d). Child  
7 protective services or the county agency providing child welfare  
8 services pursuant to Section 16501 of the Welfare and Institutions  
9 Code shall immediately investigate the circumstances of the case  
10 and file a petition pursuant to Section 311 of the Welfare and  
11 Institutions Code. Child protective services or the county agency  
12 providing child welfare services pursuant to Section 16501 of the  
13 Welfare and Institutions Code shall immediately notify the State  
14 Department of Social Services of each such child upon taking  
15 temporary custody of the child pursuant to Section 300 of the  
16 Welfare and Institutions Code.

17 ~~(e)~~—

18 (f) If, prior to the filing of a petition under subdivision ~~(d)~~ (e),  
19 a ~~person~~ parent or individual who has voluntarily surrendered a  
20 child pursuant to this section requests that the ~~hospital~~  
21 *safe-surrender site that has physical custody of the child pursuant*  
22 *to this section* return the child; and the ~~hospital~~ *safe-surrender site*  
23 still has custody of the child, *personnel of the hospital*  
24 *safe-surrender site* shall either return the child to the ~~person~~ parent  
25 or individual or contact a child protective agency if a health  
26 practitioner ~~at~~ *associated with the hospital safe-surrender site*  
27 knows or reasonably suspects that the child has been the victim of  
28 child abuse or neglect. The voluntary surrendering of a child  
29 pursuant to this section is not in and of itself a sufficient basis for  
30 reporting child abuse or neglect. The terms “child abuse,” “child  
31 protective agency,” “health practitioner,” “neglect,” and  
32 “reasonably suspects” shall be given the same meanings as in  
33 Article 2.5 (commencing with Section 11164) of Part 4 of Title 1  
34 of the Penal Code.

35 ~~(f)~~—

36 (g) Subsequent to the filing of a petition under subdivision ~~(d)~~  
37 (e), if within 14 days of the voluntary surrender described in this  
38 section the ~~person~~ parent or individual who surrendered custody  
39 returns to claim physical custody of the child, the child welfare  
40 agency shall verify the identity of the ~~person~~ parent or individual,

1 conduct an assessment of ~~the person's~~ *his or her* circumstances and  
2 ability to parent, and request that the juvenile court dismiss the  
3 petition for dependency and order the release of the child, if the  
4 child welfare agency determines that none of the conditions  
5 described in subdivisions (a) to (d), inclusive, of Section 319 of the  
6 Welfare and Institutions Code currently exist.

7 ~~(g)~~

8 ~~(h) No person or entity~~ *safe-surrender site, or personnel of the*  
9 *safe-surrender site*, that accepts *custody of* a surrendered child  
10 *pursuant to this section* shall be subject to civil, criminal, or  
11 administrative liability for accepting the child and caring for the  
12 child in the good faith belief that action is required or authorized  
13 by this section, including, but not limited to, instances where the  
14 child is older than 72 hours or the ~~person~~ *parent or individual*  
15 surrendering the child did not have lawful physical custody of the  
16 child. ~~The provision~~ *This subdivision* does not confer immunity  
17 from liability for personal injury or wrongful death, including, but  
18 not limited to, injury resulting from medical malpractice.

19 ~~(h)~~

20 *(i) Any identifying information that pertains to a parent or*  
21 *individual who surrenders a child pursuant to this section, that is*  
22 *obtained as a result of the questionnaire described in paragraph*  
23 *(3) of subdivision (b) or in any other manner, is confidential and*  
24 *shall not be disclosed by any employee of a safe surrender site that*  
25 *accepts custody of a child pursuant to this section.*

26 *(j) This section shall be repealed on January 1, 2006, unless a*  
27 *later enacted statute extends or repeals that date.*

28 SEC. 2. Section 271.5 of the Penal Code is amended to read:

29 271.5. (a) No parent or other ~~person~~ *individual* having lawful  
30 custody of a minor child 72 hours old or younger may be  
31 prosecuted for a violation of Section 270, 270.5, 271, or 271a if he  
32 or she voluntarily surrenders physical custody of the child to ~~any~~  
33 ~~employee, designated pursuant to this section, on duty at a public~~  
34 ~~or private hospital emergency room or any additional location~~  
35 ~~designated by the county board of supervisors by resolution. Each~~  
36 ~~such hospital or other designated entity shall designate the classes~~  
37 ~~of employees required to take custody of these children a~~  
38 ~~safe-surrender site.~~

- 1 (b) *For purposes of this section, “safe-surrender site” has the*  
2 *same meaning as defined in paragraph (1) of subdivision (a) of*  
3 *Section 1255.7 of the Health and Safety Code.*  
4 (c) This section shall be repealed on January 1, 2006, unless a  
5 later enacted statute extends or deletes that date.

